

10. Required Contract Provision – 41 CFR Part § 250.5(a)

One signed completed "Request" (Items 1, 2, 3, 4 and 5) is to be forwardly directed to:

Maine Department of Transportation
Bureau of Project Development/Contracts
16 State House Station
Augusta, ME 04333

PHONE: (207) 624-3410

FAX: (207) 624-3431

In case of urgency, the completed "Requests" may be faxed to the Contracts Unit. The original signed "Requests" are to be forwarded to the Contracts Unit.

For your convenience, we are transmitting herewith complete packets of the above mentioned provisions in order that you may have them readily available for incorporation into proposed subcontracts. Additional packets are available upon request.

Respectfully,

A handwritten signature in black ink, appearing to read "Scott Bickford", written over a horizontal line.

Scott Bickford
Contracts Engineer
Project Development

Enclosures

mrh

June 2008

(PLEASE CHECK APPROPRIATE BOX)

☐ REQUEST FOR SUBCONTRACT ACCEPTANCE

☐ REQUEST FOR LOWER TIER SUBCONTRACT ACCEPTANCE

To the Maine Department of Transportation
Bureau of Project Development/Contracts
Augusta, Maine 04333

SUBJECT: Project No.(s) _____

Date _____, 200____

PIN (s) _____

Located in _____

Permission is requested to sublet the following described work, being a portion of the above project, to:

Subcontractor _____ Tel # _____

Mailing Address _____ Fax # _____ Federal I.D. # _____

Minority Status DBE _____ MBE _____ WBE _____

In the total amount indicated as follows: (When contract items are to be sublet, contract unit prices and/or amounts are to be shown in the following tabulation. When work to be sublet is only incidental to, or is not covered by, a contract item or items, estimated or agreed amounts are to be shown.)

Proposal Line	Item #	Description	Unit	Quantity	Unit Price	Amount

Use next page for additional items

TOTAL _____

It is agreed and understood that this subcontract will contain, by inclusion or reference, all the pertinent provisions of the Prime Contract for the above mentioned project(s) and will be subject to the terms and requirements thereof.

It is further agreed and understood that acceptance of any subcontract shall not under any circumstances operate to relieve the prime contractor or his/her surety of any of his/her or their obligations under the contract or bonds; neither shall any subcontract or approval of any subcontractor cause or be deemed to create any rights in favor of such subcontractor against the State of Maine. All subcontractors shall be deemed to be agents of the contractor. All subcontracts and acceptance of subcontracts shall be understood to be based on the requisite of performance by the subcontractor in accord with the contract and should any subcontractor fail to perform the work to the satisfaction of the Dept. of Transportation, the Department shall have the right to rescind approval at once and require performance by the contractor.

Qualifications of Subcontractor or Lower Tier Subcontractor:

Has he/she done similar work? _____ If so, for whom and in what amounts:

(list three references) 1. _____ (list amounts) \$ _____
2. _____ \$ _____
3. _____ \$ _____

The Contractor further states that the above named Subcontractor is experienced and equipped to perform this work.

Prime Contractor

Sub Contractor (only if lower tier)

By _____

By _____

(This request for a lower tier subcontract must be signed by both the prime contractor and the subcontractor initializing the request or their legally authorized assets)

DO NOT WRITE BELOW THIS LINE

SUBCONTRACT	LOWER TIER SUBCONTRACT
The total amount of the contract is \$ _____	Amount of Subcontract \$ _____
Amount to date, \$ _____ %	This request, \$ _____
This request, \$ _____ %	
Total, \$ _____ %	

Approved by the Department of Transportation on

_____, 200____ By _____

[illegible]

March 5, 2007
Supersedes
March 30, 2006

REQUIRED CONTRACT PROVISION
EMPLOYMENT

In addition to the notification required by the Equal Employment Opportunity Pledge, Required Contract Provision, dated March 5, 2007 the Contractor and all subcontractors shall notify the Maine Job Service local office of all employment openings which become available on this project and/or within their respective company during the terms of the contract.

This provision shall not apply to employment openings which the Contractor proposes to fill from within his own organization utilizing existing personnel.

This provision is a requirement under Executive Order 11246, Part II, Subpart B – Contractors Agreements, SEC. 202(3) and 41 CFR §60-1.4, (a) (3).

February 1, 2008
Supersedes March 5, 2007

**REQUIRED CONTRACT PROVISION
EQUAL EMPLOYMENT OPPORTUNITY**

All Contractors and subcontractors engaged in work on this project shall notify each union and or Maine Job Service local office from which he/she intends to obtain his/her source of labor, of his/her pledge to provide equal employment opportunities without regard to race, color, religion, sex or national origin.

This shall be done by the completion of the following letter written on the Contractor's or subcontractor's letterhead stationery and sent to the applicable union or agency.

To: _____
(Union, employment agency or employee's representative)

(Address)

Subject: Equal Employment Opportunities on

State Project No.: _____
Federal Aid Project No.: _____
Location: _____
Description of Work: _____

For work incidental to the construction of the above listed project to be performed under State Contract No.: _____, I have pledged to provide equal employment opportunities without regard to race, color, religion, sex or national origin. This pledge applies to all employees and applicants for employment in connection with:

- Hiring, Placement, Upgrading, Transfer or Demotion
- Recruitment, Advertising or Solicitation for Employment
- Treatment During Employment
- Rates of Pay or Other Forms of Compensation
- Selection for Training, Including Apprenticeship
- Layoff or Termination

Inquiries and complaints should be addressed to:

President's Committee on Equal Employment Opportunity
Washington, D.C.

Signed: _____

(Title)

For: _____

(Contractor)

(Address)

February 1, 2008
Supersedes
March 5, 2007

REQUIRED CONTRACT PROVISIONS SUBCONTRACTORS

The “Required Contract Provisions-Federal Aid Construction”, which are part of this proposal, stipulate that the contents of these same Required Provisions be included in each of the Contractor’s subcontracts, and in lower tier subcontracts.

As proof of compliance with the requirement, the contractor shall, furnish the following to the Department.

1. Request for Subcontract/Lower Tier Subcontract Acceptance.
2. Copy of pertinent agreement between contractor and subcontractor.
3. Notification to union or Maine Job Service.
4. Subcontract Certification.

The following Standard Provisions in the form of Standard Contract Clauses must be physically incorporated in all subcontracts and lower tier subcontracts:

1. Required Provision - Federal Aid Contracts. (Form FHWA -1273)
2. Required Provision – 49 CFR Part § 26.13.
3. Required Provision - Goals for Employment of Females.
4. Required Provision – 41 CFR Part § 250.5(a).

The necessary “Subcontract Packets” for these provisions are available in the “Contracts Unit” of the Maine Department of Transportation in Augusta. Telephone # 624-3410.

In addition to the above, it is agreed and understood that all subcontracts will contain, by inclusion or reference, all the pertinent provisions of the contract for this project and will be subject to the terms and requirements thereof.

No work shall be started by the subcontractor until the “Request for Subcontract Acceptance” has been accepted by the Department.

REQUIRED CONTRACT PROVISION

Title 49 – Transportation

Part § 26.13

- (b) Each contract you sign with a contractor (and each subcontract the prime contractor signs with a subcontractor) must include the following assurance:

The contractor, sub recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate.

February 1, 2008

REQUIRED CONTRACT PROVISION
Goals for Employment of Females and Minorities

§60-4.2 Solicitations

- (d) The following notice shall be included in, and shall be part of, all solicitations for offers and bids on a Federal and federally assisted construction contracts or subcontracts in excess of \$10,000 to be performed in geographical areas designated by the Director pursuant to §60-4.6 of this part (see 41 CFR 60-4.2(a)):

Notice of Requirement for Affirmative Action to Ensure Equal Opportunity (Executive Order 11246)

1. The Offeror's or bidder's attention is called to the "Equal Opportunity Clause" and the "Standard Federal Equal Employment Specifications" set forth herein.
2. The goals and timetables for minority and female participation, expressed in percentage terms for the Contractor's aggregate work force in each trade on all construction work in the covered area, are as follows:

Goals for Female participation in each trade 6.9%

Goals for minority participation for each trade

Maine

001 Bangor, ME 0.8%

Non-SMSA Counties (Aroostook, Hancock, Penobscot, Piscataquis, Waldo, Washington)

002 Portland-Lewiston, ME

SMSA Counties: 0.5%

6403 Portland, ME 0.6%

Non-SMSA Counties: 0.5%

(Franklin, Kennebec, Knox, Lincoln, Oxford, Somerset, York)

These goals are applicable to all the Contractor's construction work (whether or not it is Federal or federally assisted) performed in the covered area. If the contractor performs construction work in a geographical area located outside of the covered area, it shall apply the goals established for such geographical area where the work is actually performed. With regard to this second area, the contractor also is subject to the goals for both its federally involved and non federally involved construction.

The contractor's compliance with the Executive Order and the regulations in 41 CFR Part 60-4 shall be based on its implementation of the Equal Opportunity Clause, specific affirmative action obligations required by the specifications set forth in 41 CFR 60-4.3(a), and its efforts to meet the goals. The hours of minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade, and the contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from Contractor to Contractor or from project to project for the sole purpose of meeting the Contractor's goals shall be in violation of the contract, the Executive Order and the regulations in 41 CFR Part 60-4. Compliance with the goals will be measured against the total work hours performed.

3. The Contractor shall provide written notification to the Director of the Office of Federal Contract Compliance Programs within 10 working days of award of any construction subcontract in excess of \$10,000 at any tier for construction work under the contract resulting from this solicitation. The notification shall list the name, address and telephone number of the subcontractor, employer identification number of the subcontractor, estimated dollar amount of the subcontract; estimated started and completion dates of the subcontract; and the geographical area in which the subcontract is to be performed.

4. As used in this Notice, and in the Contract resulting from this solicitation, the “covered area” is (insert description of the geographical areas where the contract is to be performed giving the state, county and city, if any).

STANDARD FEDERAL EQUAL EMPLOYMENT OPPORTUNITY CONSTRUCTION
CONTRACT SPECIFICATIONS (EXECUTIVE ORDER 11246)

1. As used in these specifications:
 - a. “Covered area” means the geographical area described in the solicitation from which this contract resulted;
 - b. “Director” means Director, Office of Federal Contract Compliance Programs, United States Department of Labor or any person to whom the Director delegates authority;
 - c. “Employer identification number” means the Federal Social Security number used on the Employer’s Quarterly Federal Tax Return, U.S. Treasury Department form 941;
 - d. “Minority” includes:
 - (i) Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);
 - (ii) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish Culture or origin, regardless of race);
 - (iii) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and
 - (iv) American Indian or Alaskan Native (all persons having origins in any of the original peoples of the North American and maintaining identifiable tribal affiliations through membership and participation or community identification).
2. Whenever the Contractor, or any subcontractor at any tier, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of \$10,000 the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which this contract resulted.
3. If the contractor, is participating (pursuant to 41 CFR 60-4.5) in a Hometown Plan approved by the U.S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. Contractors must be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each Contractor or Subcontractor participating in an approved Plan is individually required to comply with its obligations under the EEO clause, and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other Contractors for Subcontractors toward a goal in an approved Plan does not excuse any covered Contractor's or Subcontractor's failure to take good faith efforts to achieve the Plan goals and timetables.
4. The Contractor shall implement the specific affirmative action standards provided in paragraphs 7 a. through p. of these specifications. The goals set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the Contractor should reasonably be able to achieve in each construction trade in which it has employees in contractors performing construction work in geographical areas where they do not have a Federal or federally assisted construction contract shall apply the minority and female goals established for the geographical areas where the work is being performed. Goals are published periodically in the Federal Register in notice form and such notices may be obtained from any Office of Federal Contract Compliance Programs office or from Federal procurement contracting officers. The Contractor is expected to make substantially uniform progress in meeting its goals in each craft during the period specific.
5. Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the Contractor has a collective bargaining agreement, to refer either minorities or women shall excuse the Contractor's obligations under these specifications, Executive Order 11246, or the regulations promulgated pursuant, thereto.

6. In order for the non working training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the Contractor during the training period, and the Contractor must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U.S. Department of Labor.
7. The Contractor shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the Contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The Contractor shall document these efforts fully, and shall implement affirmative action steps at least as expensive as the following:
 - a. Ensure and maintain a working environment free of harassment, intimidation, coercion at all sites, and in all facilities at which the Contractor's employees are assigned to work. The Contractor, when possible, will assign two or more women to each construction project. The Contractor shall specifically ensure that all foremen, superintendents, and other on-site supervisory personnel are aware of and carry out the Contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.
 - b. Establish and maintain a current list of minority and female recruitment sources provide written notification to minority and female recruitment sources and to community organizations when the Contractor or its unions have employment opportunities available, and maintain a record of the organization's responses.
 - c. Maintain a current file of the names, addresses and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment sources or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the Contractor by the union or, if referred, not employed by the Contractor, this shall be documented in the file with the reason therefore, along with whatever additional actions the Contractor may have taken.
 - d. Provide immediate written notification to the Director when the union or unions with which the Contractor has a collective bargaining agreement has not referred to the Contractor a minority person or woman sent by the Contractor, or when the Contractor has other information that the union referral process has impeded the Contractor's efforts to meet its obligations.
 - e. Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the Contractor's employment needs, especially those programs funded or approved by the Department of Labor. The Contractor shall provide notice of these programs to the sources complied under 7b above.
 - f. Disseminate the Contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Contractor in meeting its EEO obligations; by including in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.
 - g. Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination or other employment decisions including specific review of these items with on-site supervisory personnel such as Superintendents, General Foremen, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.
 - h. Disseminate the Contractor's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to

and discussing the Contractor's EEO policy with other Contractors and Subcontractors with whom the Contractor does or anticipates doing business.

- i. Direct its recruitment, efforts, both oral and written, to minority, female and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations serving the Contractor's recruitment area and employment needs. Not later than one month after training by any recruitment source, the Contractor shall send written notification to organizations such as the above, describing prior to the date for the acceptance of applications for apprenticeship or the openings, screening procedures, and tests to be used in the selection process.
 - j. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer and vacation employment to minority and female youth both on site and in other areas of a Contractor's work force.
 - k. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR Part 60-3.
- l. Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.
 - m. Ensure that seniority practices, job classifications, work assignments and other personnel practices, do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the Contractor's obligations under these specifications are being carried out.
 - n. Ensure that all facilities and company activities are non segregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.
 - o. Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitation to minority and female contractor associations and other business associations.
 - p. Conduct a review, at least annually, of all supervisors' adherence to and performance under the Contractor's EEO policies and affirmative action obligations.
8. Contractors are encouraged to participate in voluntary associations which assist in fulfilling one or more of their affirmative action obligations (7 a through p.). The efforts of a contractor association, joint contractor-union, contractor-community, or other similar group of which the contractor is a member and participant, may be asserted as fulfilling any one or more of its obligations under 7 a through p. of these specifications provided that the contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the Contractor's minority and female work force participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligation to comply, however, is the Contractor's and failure of such a group to fulfill an obligation shall not be a defense for the Contractor's noncompliance.
9. A single goal for minorities and a separate single goal for women have been established. The Contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the Contractor may be in violation of the Executive Order if a particular group is employed in a substantially disparate manner (for example, specific minority group of women is underutilized.)
10. The Contractor shall not use the goals and timetables or affirmative action even though the Contractor has achieved its goals for women generally, the Contractor may be in violation of the Executive Order if standards to discriminate against any person because of race, color, religion, sex, or national origin.
11. The Contractor shall not enter into any Subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.
12. The Contractor shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination and cancellation of existing subcontracts as may be imposed

or ordered pursuant to Executive Order 11246, as amended, and its implementation regulations by the Office of Federal Contract Compliance Programs. Any Contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.

13. The Contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph 7 of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of the Executive Order, the implementing regulations, or these specifications, the Director shall proceed in accordance with 41 CFR 60-4.6.
14. The Contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government and to keep records. Records shall at least include for each employee the name, address, telephone numbers, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g. mechanic, apprentice, trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and location at which the work was performed. Records be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.
15. Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application of requirements for the hiring of local or other area residents (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

41 CFR § 60 – 250.5(a)
Required Contract Provision
Equal Opportunity Clause for Disabled Veterans
And Veterans of the Vietnam Era

38 U.S.C. 4212 of the Vietnam Era Veterans Readjustment Assistance Act of 1974 prohibits job discrimination and requires affirmative action to employ and advance in employment qualified Vietnam era veterans and qualified special disabled veterans.